

REMARKS

The application was thoroughly examined in a first Action dated November 2, 2001. No claims were allowed. Accompanying this response are a request for Extension of Time and Fee Authorization and Appendices A (claims with markings to show changes made) and B (specification substitute pages with markings to show changes made).

1. Specification:

Per the Examiner's helpful suggestion, the title was changed to "Non-Wax Superior Gloss Polishing Composition."

2. Alleged 35 U.S.C. §112 Rejections:

In response to the Examiner's helpful suggestions, the claims were amended to substitute "composition" for each instance of "compound." Additionally, in Claim 1, subpart (f), the word "emulsifier" was removed. The action's comment was that it was not clear if "said emulsifier is an 'acrylic polymer' or a 'non-polymeric emulsifier' for an acrylic polymer." In any event, since the "acrylic polymer" is a polymer and an emulsifier, it will be understood by the term's use in the claim what it means. Claims 2 and 3 were also rewritten to add the word "further" after "Claim 1". The Examiner is again thanked for his helpful suggestion. On the other hand, Claims 4 and 5, wherein it was suggested that the use of the term "comprises" was indefinite, is not well taken. The term "comprises" is an open-ended preamble. The use of the term "comprising" is well accepted in the art and means that the named elements are essential but other elements may be added and still form a construct within the scope of the claim. Genentech, Inc. v. Chiron Corp., 42 U.S.P.Q. 2d 1608, 1613 (Fed. Cir. 1997). This term has not been found indefinite in the cited authority. Accordingly, it is maintained that the use of the term "comprises" as an integral portion of the claim is proper and definite. Accordingly, the rejection as to the use of "comprises" should be withdrawn.

3. Alleged 35 U.S.C. §103 Rejections

All claims were rejected under 35 U.S.C. §103(a) as being allegedly obvious over the combination of Lohr et al., U.S. 4,347,333 or Lohr et al., EP 42,281, in view of Varga et al., U.S. 4,497,919. Essentially, the action alleged that each of the Lohr references taught oil-in-water polishing compositions, except for the use of a specifically claimed alkanol co-solvent. However, according to the action, Varga would supply the use of such omitted co-solvent.

The Examiner is cordially requested to take notice of the amendment to Claim 1, subpart (c). The Applicant has inserted "titanium dioxide" before the word "abrasive." Direct support for this is from page 3, line 10, of the original disclosure. The following remarks are in further support of patentability.

The essential distinction between the cited art and invention, as now rewritten in Claim 1 (and all claims thereon dependent, Claims 2-5), is that no portion of the cited art teaches, discloses or claims the use of titanium dioxide as a finely divided abrasive.

Titanium dioxide is not only an abrasive, but adds gloss to the finish of the non-wax polishing composition. It is further noted that in each instance of the cited art, wax, which is omitted from compositions of the invention, is recited as an essential portion of each reference's teaching.

For example, Lohr '333 contains paraffin, microcrystalline and petronauba wax, as well as carnauba wax. All of the Lohr '333 examples are based on Example 1, so they may be taken similarly. It should, however, be observed that none of these examples contains titanium dioxide. To similar effect is Lohr '281, in which there is no teaching, disclosure or suggestion of titanium dioxide. Varga '919 again uses wax (see Column 8) and Veegum, but not titanium dioxide.

From the specification, it can be seen that the use of titanium dioxide presents a different and distinct level of gloss and durability. In fact, this can be seen by review of the experimental section of this specification. In Tables I and II, it can be seen that both the initial color and durability of the inventive composition are superior to commercial polishes, none of which have titanium dioxide. To similar effect are the data in Table III and Table IV. Even when the polishing composition is applied to new paint, as can be seen in Table V, the improved results are manifest.

Accordingly, this evidence of superior results is proof of patentability. The claims as rewritten must be allowed.

The remaining art which has not been applied to the claims is cumulative. None of this art teaches, discloses or suggests the use of titanium dioxide as an abrasive, as in the rewritten claims.

CONCLUSION

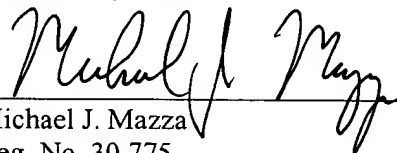
The claims, as amended, are novel and unobvious over the cited art. Favorable consideration is respectfully requested. If the next action of the Examiner is other than to allow the claims, the favor of a brief telephonic interview is requested.

FEE AUTHORIZATION

Please charge the fee due of \$400 for the above two-month Petition for Extension of Time to Deposit Account No. 03-2270. (37 C.F.R. §1.117(a)). The Assistant Commissioner is hereby authorized to charge any additional fees which may be required in connection with this paper, or credit any overpayment, to Account No. 03-2270. This sheet is submitted in duplicate.



Respectfully submitted,



Michael J. Mazza
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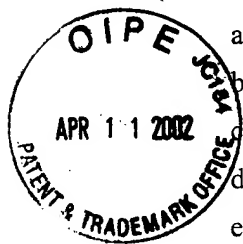
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APPENDIX A – Claims as Amended with Markings to Show Changes Made



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1. (Amended) A non-wax glass polishing [compound] composition comprising:

- a) a water-repelling and film-forming acrylic resin;
- b) silicone fluid;
- c) finely divided titanium dioxide abrasive;
- d) a hydrocarbon solvent;
- e) an alkanol solvent;
- f) acrylic polymer [emulsifier]; and
- g) water

2. (Amended) The polishing [compound] composition of Claim 1 further containing a preservative.

3. (Amended) The polishing [compound] composition of Claim 1 further containing a fragrance.

4. (Amended) The polishing [compound] composition of Claim 1 wherein:

the acrylic [resin] polymer comprises from about 0.6% to about 2.5% by weight of the polishing [compound] composition;

the silicone fluid comprises from about 4% to about 8% by weight of the polishing [compound] composition;

the abrasive comprises from about 1% to about 6% by weight of the polishing [compounds] composition;

the hydrocarbon solvent comprises from about 5% to about 25% by weight of the polishing [compound] composition;

the alkanol solvent comprises from about 2% to about 5% of the polishing [compound] composition;

the acrylic polymer comprises from about 1.2% to about 2% by weight of the polishing [compound] composition; and

the water comprises the remainder of the polishing [compound] composition.

5. (Amended) The polishing [compound] composition of Claim 1 wherein:

the acrylic [resin] polymer comprises from about 1.3% to about 1.8% by weight of the polishing [compound] composition;

the silicone fluid comprises from about 4% to about 6% by weight of the polishing [compound] composition;

the abrasive comprises from about 2% to about 3.5% by weight of the polishing [compounds] composition;

the hydrocarbon solvent comprises from about 8% to about 13% by weight of the polishing [compound] composition;

the alkanol solvent comprises from about 2% to about 5% of the polishing [compounds] composition;

the acrylic polymer comprises from about 1.2% to about 2% by weight of the polishing [compounds] composition; and

the water comprises the remainder of the polishing [compound] composition;

APPENDIX B – Specification as Amended with Markings to Show Changes Made

IN THE TITLE

Page 1, line 3:

NON-WAX SUPERIOR GLOSS POLISHING [COMPOUND] COMPOSITION

IN THE SPECIFICATION

Page 5, starting at line 10, Example II:

EXAMPLE II

The polishing composition was prepared by mixing the following ingredients according to the procedure of Example I.

Ingredient	% by weight
Deionized water	QS
Dye	0.007
Acusol 820	1.700
<u>Caustic</u> [Cuastic]soda 50% solution	0.197
Kaopolite 1168	2.000
Titanium dioxide	2.500
Preservative	0.100
Silicone SWS 101, 350 cst	2.000
Silicone SWS 101, 1000 cst	1.000
Silicone SWS 101, 30,000 cst	0.300
Amino-silicone F=784	1.500
Odorless Mineral Spirits	10.500

EXAMPLE III

The polishing composition was used for the comparative tests was prepared by mixing the following ingredients according to the procedure of Example I.

Caustic

Ingredient	% by weight
Deionized water	QS
Dye	0.007
Acusol 820	1.600
Cuastig soda 50% solution	0.195
Kaopolite 1168	2.000
Titanium dioxide	2.700
Preservative	0.100
Silicone SWS 101, 350 cst	2.000
Silicone SWS 101, 1000 cst	0.940
Silicone SWS 101, 30,000 cst	0.300
Amino-silicone F=784	1.000
Odorless Mineral Spirits	9.350
Isopropanol	4.200
Acrylic resin	1.500
Fragrance	0.100
Total	100.00